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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 ROBERT M. CZAJKOWSKI,
12 Plaintiff and Counter Defendant,
13 vs.

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15 UNITED STATES OF AMERICA,
16 Defendant and Counter Claimant.

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18 RICHARD K. AUSBROOK,
19 Plaintiff and Counter Defendant,
20 vs.
21 UNITED STATES OF AMERICA,
22 Defendant and Counter Claimant.

CASE NO. 07cv1114-LAB (LSP)
07cv1313-LAB (WMc)

**ORDER GRANTING MOTIONS TO
CONSOLIDATE**

[07cv1114-LAB(LSP) Dkt No. 11]
[07cv1313-LAB(WMc) Dkt No. 10]

23 This matter is before the court on the motion of defendant and counter-claimant the
24 United States of America to consolidate for all purposes two pending IRS tax recovery cases,
25 Czajkowski v. United States, 07cv1114-LAB(LSP) and Ausbrook v. United States, 07cv1313-
26 LAB(WMc). Defendant represents in the motions both plaintiffs are agreeable to consolidate
27 the cases for all purposes other than trial, although in their discussions with defendant
28 plaintiffs purportedly left open the possibility they might agree in the future to seek

1 consolidation for trial as well. The deadline to file oppositions to the motions passed on
2 January 28, 2008, with no response from either plaintiff. Pursuant to Civil Local Rule
3 7.1(f)(3)(c), the court construes plaintiffs' failure to file opposition papers as a consent to the
4 granting of the motions. The court has reviewed defendant's consolidation showing and is
5 satisfied the FED. R. CIV. P. 42(a) conditions are met. Accordingly, **IT IS HEREBY**
6 **ORDERED:**

7 1. The pending cases Czajkowski v. United States, 07cv1114-LAB(LSP) and
8 Ausbrook v. United States, 07cv1313-LAB(WMc) are hereby consolidated for all purposes,
9 without prejudice to a future showing of good cause why separate trials should be ordered.

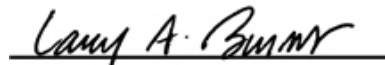
10 2. The parties shall modify the caption for all filings in these actions to reflect the
11 matter is proceeding as a consolidated action, identifying both cases.

12 3. All docketing, after entry of this consolidation Order in both cases, shall occur
13 in the lower-numbered case, Czajkowski v. United States, 07cv1114-LAB(LSP), and all
14 future proceedings shall be conducted before the judges assigned to that case.

15 4. The hearings presently calendared for February 11, 2008 in both cases are
16 hereby **VACATED AS MOOT.**

17 **IT IS SO ORDERED.**

18 DATED: January 31, 2008

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20 **HONORABLE LARRY ALAN BURNS**
21 United States District Judge
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